

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

ORDER

This matter comes before this Court on the Defendant's Motion Pursuant to 18 U.S.C. § 4241 (Determination of Mental Competency to Stand Trial and Assist in Defense) filed by Defendant's counsel, Janice W. Purcell, on January 22, 2009 (Docket Entry #49). Ms. Purcell has raised concerns about the defendant's competency to stand trial and requests this Court to order psychological and psychiatric examinations of the defendant pursuant to 18 U.S.C. § 4241. This Court also notes the government has filed a response to defendant's motion indicating the government does not oppose the requested evaluation. After considering the motion and all other pleadings, this Court finds the Defendant's Motion for Competency Evaluation (Docket Entry #49) should be granted and the Defendant should receive

a psychological examination for the purpose of determining his competency to stand trial.

IT IS THEREFORE ORDERED that the Defendant's Motion for Competency Evaluation filed by Defendant's counsel, Janice W. Purcell, on January 22, 2009 (Docket Entry #49) is hereby **GRANTED**. Accordingly, pursuant to 18 U.S.C. §§ 4241 and 4247(b), this Court hereby orders:

1. That a Federal Medical Center for Prisoners shall be designated and shall promptly examine this Defendant, pursuant to 18 U.S.C. § 4241, to determine whether he is suffering from a mental disease or defect rendering him mentally incompetent:
 - a. to the extent that he is unable to understand the nature and consequences of the proceedings against him; or
 - b. to properly assist in his own defense; and
2. The United States Marshal's Service shall, pursuant to 18 U.S.C. §§ 4241 and 4247(b), transport the Defendant, Truman Leon Burgess, to the designated facility for this examination and shall return Defendant following the examination; and

3. After completing the examination, the designated facility shall file a psychiatric report on the Defendant with this Court, pursuant to 18 U.S.C. § 4247, a copy of which shall be provided to the Defendant.

IT IS FURTHER ORDERED that the Defendant, Truman Leon Burgess, and the United States Probation Office for this District shall make available to the designated facility any records, reports, or other documents in their possession which pertain to this Defendant. Further, Defendant's counsel shall cooperate with the designated facility in the processing of the examination.

IT IS FURTHER ORDERED that any periods of delay resulting from these proceedings are excluded under the provisions of the Speedy Trial Act, 18 U.S.C. § 3161(h)(1)(a).

In light of the Court's order, the jury trial in this matter currently set on February 2, 2009 is hereby STRICKEN, to be reset as necessary following the Court's determination as to Defendant's competency to stand trial.

IT IS SO ORDERED this 30th day of January, 2009.


James H. Payne
United States District Judge
Eastern District of Oklahoma